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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,258	11/03/2003	Robert J. Simmons	J-BSIM.1006	3704
56703	7590	11/29/2007		
ROBERT D. VARITZ, P.C. 4915 SE 33RD PLACE PORTLAND, OR 97202			EXAMINER LAUX, JESSICA L	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 11/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/700,258	<b>Applicant(s)</b> SIMMONS, ROBERT J.	
	<b>Examiner</b> Jessica Laux	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Conn (5848512).**

Regarding claim 1: An elongate structural chase beam adapted for assembly in a building frame as a unit extending laterally between, and with opposite ends anchored to, a pair of upright columns (as seen in figure 3), and further adapted to accommodate the vertical passage of selected building infrastructure through, and generally within the vertical plane containing, the long axis of the beam, said beam comprising:

spaced opposite end portions (12, 14), and an elongate spanner portion (16, 18) extending between and joining operatively with said end portions, and including a central, vertically-oriented through-passage (as seen in figure 1), referred to as a clear-space chase passage, having an open top and an open bottom capable of accommodating the vertical passage of selected building infrastructure therethrough, that lies generally about a plane containing the beam's long axis.

Regarding claim 2: An elongate structural chase beam adapted for assembly in a building frame as a unit extending laterally between, and with opposite ends anchored to, a pair of upright columns (as seen in figure 3), and further adapted to accommodate the vertical passage of selected building infrastructure through, and generally within the vertical plane containing the long axis of, the beam, said beam comprising:

a pair of longitudinally spaced end portions (12, 14) defining opposite ends of the beam, and a pair of elongate, laterally spaced and generally parallel spanner portions (16, 18) extending between and having opposite ends operatively joined to said end portions, the space between said spanner portions defining a vertically clear chase passage extending as a clear space through the beam generally about a plane containing the beam's long axis (as in figure 1).

Further regarding claims 1 and 2: The phrases "adapted for assembly in a building frame as a unit extending laterally between, and with opposite ends anchored to, a pair of upright columns" and "further adapted to accommodate the vertical passage of selected building infrastructure through, and generally within the vertical plane containing the long axis of, the beam" are recitations of intended use, which do not further limit the structural features of the claimed invention. It has been held that a recitation regarding the manner in which a claimed apparatus is intended to be used does not differentiate the claimed apparatus from a prior art apparatus that satisfies the claimed limitations.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conn (5848512).**

Regarding claims 3 and 4: Conn discloses the chase beam of claim 2 above, but does not expressly disclose that at least one of or each of said end portions is formed with an overload fuse. However, it is common and known in the art to use overload fuses on beams in building applications, further it is noted that applicant disclose in the specification on page 4, line 13 and page 5, lines 11-17 that the use of overload fuses in beams is conventional in the art. It would have been a matter of obvious design choice to one of ordinary skill in the art to include overload fuses in the beams of Conn, for the purpose of protecting against overload, in a building construction situation.

***Allowable Subject Matter***

Claims 5-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 6:30am to 2:30pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



/JEANETTE CHAPMAN/  
PRIMARY EXAMINER

JL  
11/20/2007